

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No. 9902

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Application of:

Christopher M. Benson

Art Unit: 3627

Serial No.: 10/010,983

Examiner: J. Kramer

Filed: December 6, 2001

For: CLUSTERING OF RETAIL TERMINALS

MS Appeal Brief
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF MAILING
(37 CFR 1.84)

I hereby certify that this correspondence is, on
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Alexandria, VA 22313.

5-19-2005 Karen A. Church

Date

Karen A. Church

RESPONSE TO OFFICE COMMUNICATION

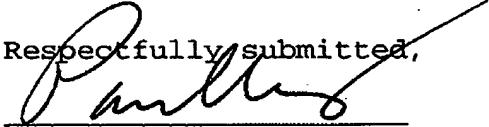
Sir:

This is a response to the Office communication mailed April 28, 2005.

The Office has requested that Appellant correct its appeal brief to include a rejection of claims 1-5 under 35 USC 103(a) as being unpatentable over Freedman 4,318,173 in view of Suski (taken as Suzuki 4,360,872). However, such rejection is not of record. Therefore, Appellant believes that it would be improper to correct its appeal brief to include the requested rejection.

The Final Office Action (Paper No. 6) mailed June 2, 2004, was the only action in which the Suzuki reference was raised. In that action, only claims 6-13 were rejected over Freedman 4,318,173 in view of Suzuki 4,360,872. Appellant finds no rejection of claims 1-5 over Freedman 4,318,173 in view of Suzuki 4,360,872 of record.

Respectfully submitted,



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